

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Year 2000 Biennial Regulatory Review --)	WT Docket No. 01-108
Amendment of Part 22 of the Commission's)	
Rules to Modify or Eliminate Outdated Rules)	
Affecting the Cellular Radiotelephone Service)	
and other Commercial Mobile Radio Services)	

REPLY COMMENTS OF VERIZON WIRELESS

Dated: August 1, 2001

Verizon Wireless

John T. Scott, III
Vice President and Deputy General
Counsel – Regulatory Law

Andre J. Lachance
Regulatory Counsel

Michael P. Samsock
Associate Director Regulatory Matters

Verizon Wireless
1300 I Street, N.W., Suite 400-West
Washington, D.C. 20005
(202) 589-3760

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SUMMARY

Verizon Wireless again applauds the Commission's effort to review comprehensively its Part 22 rules and modify or eliminate those provisions that impede competition or are otherwise not necessary.

In its comments, Verizon Wireless endorsed many of the proposals set forth in the NPRM, including the proposals to (1) eliminate the requirement that licensees inform subscribers of reliable service areas; (2) eliminate the requirement that licensees notify the FCC of a denial of service due to lack of capacity; (3) eliminate language that could be read to imply that a licensee may only terminate service when a subscriber operates a cellular telephone in an airborne aircraft; (4) eliminate the vertical wave polarization requirement; (5) eliminate language making the cellular system identification number a term of license; (6) amend the service commencement and construction periods rules; (7) eliminate the incidental services rule; (8) eliminate the financial demonstration requirement in all cases except comparative renewal proceedings; (9) eliminate the Section 22.943(c) anti-trafficking limitation; and (10) eliminate the prohibition against having any interest in more than one application to operate a new cellular system.

As Verizon Wireless noted in its comments, it does not support eliminating the cellular analog service requirement at this time. Verizon Wireless believes that it is essential that the FCC retain the analog cellular service requirement for a 5-year sunset period to allow customers that rely on analog cellular service time to prepare for the transition to digital technology. Further, the sunset period will allow industry and the

disabled community time to develop and implement solutions that will provide TTY users and persons with hearing aids access to digital networks and equipment.

In order to protect the interests of cellular customers that rely on analog technology, the Commission must not immediately eliminate the analog service requirement. In fact, not one commenter argued that carriers should begin to remove analog capability immediately. Many argued that adoption of a transition period would alleviate problems for customer and businesses that currently use analog cellular service. Even those commenters that opposed removing the analog service requirement, without mention of a transition period, could support eliminating the analog service requirement if they were assured that a reasonable 5-year transition period would be adopted. Accordingly, the 5-year transition period is a well reasoned compromise between those that would eliminate the analog service requirement earlier than 5 years and those that want to retain the requirement in perpetuity.

Verizon Wireless reiterates that it does not believe the Commission should modify the current OET 53 AMPS standard. The language in Section 22.933 is flexible enough to allow carriers to use equipment in their networks that meets updated industry analog standards, so long as that equipment is compatible with older cellular equipment. If the Commission elects to modify its rules incorporating the AMPS standard, however, it should not eliminate references to a particular standard. Doing so could lead to incompatible analog networks.

The Commission must retain other rule provisions that contain aspects of the analog service requirement, such as the analog channelization plan, the modulation requirements and in-band emissions limitations. These rule provisions are necessary to

ensure compatibility among analog networks and should be retained until the sunset date.

The Commission should retain the unique electronic serial number (“ESN”) rule. The ESN is still a valuable tool in cloning fraud detection in many markets and is used in billing, provisioning, service validation, and equipment validation. Verizon Wireless does not support Qualcomm’s proposal that ESN/UM ID requirements be maintained by industry standards bodies, not by rule. However, Verizon Wireless does agree with Qualcomm that the unique UIM ID, when fully developed and implemented, could be substituted for ESN. Accordingly, Verizon Wireless would support a revision of Section 22.919(a) to allow for enough flexibility to accommodate the development of unique identifiers other than the ESN.

Verizon Wireless opposes the proposed rule change to the out-of-band emission limit rules as they would adversely affect current and future air interface standards resulting in a loss of capacity to current systems and certain 3G technologies.

The majority of the commenters, including Verizon Wireless, supported eliminating the vertical wave polarization requirement. Those commenters who objected to the elimination of the rule failed to supply the Commission with any technical analysis to support their speculative claims.

In its comments, Verizon Wireless supported complete elimination of the incidental services rule. A few commenters argued, however, that in their experience, the rule has proved useful in avoiding state regulation of novel services. Accordingly, Verizon Wireless would not oppose keeping the Section 22.323 classification, so long

as the Commission eliminates the conditions contained in Section 22.323(a), (b) and (c).

Finally, Verizon Wireless supports three additional rule changes proposed by various commenters. First, it supports streamlining the unserved area process and proposes two specific revisions. Second, Verizon Wireless supports CTIA's request that the Commission extend the cellular license renewal rules to PCS providers. This change would remove uncertainty over and clearly define the PCS renewal procedures. Third, the Commission should adopt Qualcomm's proposal to raise the maximum base station transmit power.

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REPLY COMMENTS OF VERIZON WIRELESS

Verizon Wireless hereby submits its reply comments in response to the Notice of Proposed Rulemaking ("NPRM") released by the Federal Communications Commission ("FCC" or "Commission") on May 17, 2001.¹ As discussed below, the Commission should retain the cellular analog service requirement and the technical standards associated with that requirement for five years. Many of the other rules changes proposed by the Commission should be adopted immediately.

¹ Year 2000 Biennial Regulatory Review – Amendment of Part 22 of the Commission's Rules to Modify or Eliminate Outdated Rules Affecting the Cellular Radiotelephone Service and Other Commercial Mobile Radio Services, *Notice of Proposed Rulemaking*, WT Docket No. 01-108, FCC 01-153 (released May 17, 2001) ("NPRM").

I. DISCUSSION OF PROPOSED RULE CHANGES

A. Adopting a 5-year sunset date best balances the need to protect customers and the desire to eliminate technology-specific rules.

In the NPRM, the Commission sought comment as to whether it should modify or eliminate the cellular analog service requirement.² In response, Verizon Wireless argued that the FCC should retain the analog service requirement for a 5-year sunset period to allow customers that rely on analog cellular service to prepare for the transition to digital technology. In addition, Verizon Wireless argued that the sunset period will allow the industry and disabled community time to develop and implement solutions that will provide TTY users and persons with hearing aids access to digital networks and equipment.³ Three other commenters, Qwest Wireless, Sprint PCS, and the Rural Telecommunications Group also supported a 5-year sunset period citing similar concerns.⁴ Still others supported a longer or unspecified transition period.⁵

Slightly more than half of the commenters either supported retaining the analog requirement indefinitely or pending future development of technical standards. These commenters generally fell into one of three groups. Telematics service providers and other businesses that depend on analog cellular service commented that analog only

² *Id.*, at 8-14.

³ Verizon Wireless Comments at 3-11.

⁴ Qwest Wireless Comments at 2-4; Sprint PCS Comments at 2-9; Rural Telecommunications Group Comments at 2-6.

⁵ CTIA Comments at 8-12 (unspecified transition period); ATX Technologies Comments at 12-17 (unspecified transition period); CaseNewHolland Comments at 3-5 (10-year transition); ICSA and MT Communications Comments at 6-7 (10-year transition); US Cellular Comments at 2-4 (unspecified transition period).

equipment has been implemented and will be in use for years to come, that digital equipment or dual mode modems that meet their service needs are not available, and that digital networks are not ubiquitous enough to support their services.⁶ Commenters representing hearing impaired interests generally supported retaining the analog service requirement at least until digital wireless networks are compatible with TTY devices and until digital wireless handsets are hearing aid-compatible.⁷ Finally, several rural cellular providers argued that analog cellular service should be retained at least until a default digital roaming standard can be developed and implemented.⁸

Three commenters supported immediately eliminating the analog cellular requirement. All three commenters, however, acknowledged the need for a transition period to allow carriers and customers to prepare for a world without analog cellular service. They argued that market conditions together with other FCC regulations should determine how long each carrier retains analog capability in its markets.⁹

Despite the range of views, not one commenter argued that carriers should begin to remove analog capability immediately. Many commenters agreed that a transition period would alleviate problems for customers and businesses that currently use analog

⁶ See, e.g., Deere and Company Comments at 5-10; OnStar Comments at 5-9; Secure Alert Comments at 2-5. As noted above, two other telematics providers, ATX Technologies and CaseNewHolland, supported keeping the analog requirement only until the end of a transition period.

⁷ See, e.g., Alexander Bell Association Comments at 1-5; National Association of the Deaf Comments at 1-8; Self Help for Hard of Hearing People Comments at 1-13.

⁸ See, e.g., Rural Cellular Association Comments at 1-9; CenturyTel Wireless Comments at 3-4; Regional Carriers Comments at 3-10.

⁹ AT&T Wireless Comments at 2-4; Cingular Wireless Comments at 3-10; Ericsson Comments at 3-6.

cellular service. Verizon Wireless expects that most parties that opposed removing the analog service requirement without mention of a transition period could support eliminating the analog service requirement if they were assured that analog service will be required for a reasonable period of time to allow customers, businesses and carriers to prepare for the transition.

A transition period best balances the competing interests expressed on this issue. The 5-year transition period supported by Verizon Wireless and others stands as a compromise between those that want the analog service requirement eliminated immediately and those that want the requirement to remain indefinitely.

While Verizon Wireless generally supports market-based rather than regulatory solutions, in this case, it does not believe carriers should be allowed to eliminate the analog service requirement prior to the end of a transition period. Given that most CMRS providers are dependent on analog cellular carriers for full roaming capabilities, once one carrier decides to eliminate analog service, most other CMRS providers and their customers will likely be affected. Carriers, customers and business should have a set period of time to prepare for an environment without ubiquitous analog service. During this time period, carriers can educate their customers that analog will be going away, and can take more aggressive steps to transition analog customers to digital service. Carriers can negotiate new roaming agreements with partners that will ensure technically compatible nationwide roaming for their customers. Customers and businesses can retire old equipment with embedded analog technology and develop digital or multi-mode solutions to replace analog systems. Finally, the transition period

can be used to develop technological solutions to ensure digital access for hearing impaired customers.

Verizon Wireless also believes that establishing a set, limited duration transition period now is more beneficial than keeping the rule in place indefinitely. As it stated in its initial comments, Verizon Wireless generally supports the Commission's efforts to spur new technological development by eliminating rules that embody a particular technology. Thus, while Verizon Wireless believes that the analog cellular requirement must be maintained for a transition period, that period should be short enough to provide incentives for all relevant parties to take action to ensure the transition occurs. Five years should be sufficient to allow most equipment with embedded analog technology to be retired or replaced, to allow carriers to deploy digital transmitters, and to ensure that analog customers trade their analog phones for digital handsets. To the extent that 5 years is not enough time to transition entirely to an environment without analog cellular, Verizon Wireless is confident that carriers, equipment manufacturers and customers will develop solutions over the next 5 years that will allow customers to get the same benefit they currently receive from analog cellular service and equipment.

For these reasons, the Commission should retain the analog cellular requirement, but only until the expiration of a 5-year sunset period.

B. Sprint PCS' transition rules should not be adopted.

Sprint proposed to have the Commission establish a transition plan that would be in effect during the 5 year sunset period. Sprint's transition plan would be based on three components: (1) customer education of the AMPS sunset date; (2) service quality rules including retaining Section 22.901(b) – requiring notification of lack of capacity –

and possibly requiring reserving 5 MHz of cellular spectrum for analog; and (3) giving cellular AMPS providers a 10 MHz credit on the spectrum cap.¹⁰

Although Verizon Wireless agrees with Sprint that the Commission should adopt a 5-year transition period, it opposes Sprint's proposal for transition rules. In the competitive CMRS market, carriers do not need regulations to ensure that they educate their customers about the transition to digital service or retain enough capacity to maintain reliable, quality cellular service for their analog customers. With respect to the spectrum cap credit, Verizon Wireless notes that Sprint's request was raised previously and is more appropriately addressed in the context of the Commission's spectrum cap proceeding. In that proceeding, Verizon Wireless opposed Sprint's cap credit proposal because market conditions warrant eliminating the CMRS spectrum cap in its entirety.¹¹

C. The Commission should retain Section 22.933 of its rules until the end of the sunset period.

In the NPRM, the Commission sought comment on whether it should eliminate the embodiment of the advanced mobile phone service ("AMPS") analog cellular standard in Section 22.933 of the Commission's rules. In its comments, Verizon Wireless argued that while the current OET 53 AMPS standard is out of date, Section 22.933 is flexible enough to allow cellular licensees to use equipment that complies with the latest version of the Telecommunications Industry Association ("TIA") analog cellular standards, so long as the equipment is compatible with equipment that meets the OET

¹⁰ Sprint PCS Comments at 9-12.

¹¹ In the Matter of 2000 Biennial Regulatory Review Spectrum Aggregation Limits for Commercial Mobile Radio Services, WT Docket No. 01-14, Reply Comments of Verizon Wireless (filed May 14, 2001), at 26.

53 AMPS standard. Accordingly, Verizon Wireless supported retaining Section 22.933 of the Commission's rules in order to ensure that the analog service and equipment provided by cellular licensees will continue to be compatible with analog services and equipment provided by all other cellular licensees.¹²

Although they took no position on whether the Commission should eliminate the analog cellular requirement, Qualcomm and TIA supported eliminating the AMPS analog technical standard in the Commission's rules. Both argue that the current AMPS standard is out of date.¹³ TIA also contends that the Commission's rules should be technology-neutral, and that because analog cellular is a mature service, reference to a particular standard is no longer necessary.¹⁴

Notwithstanding these arguments, Verizon Wireless believes that Section 22.933 should be retained until the sunset date. **Retaining the analog service requirement will serve no purpose unless the analog cellular services provided by each licensee are compatible. The only way to ensure that compatibility exists is to retain the current rule.** Because Section 22.933 is flexible enough to allow equipment compliant with the current TIA standard to be employed in cellular networks, so long as such equipment is compatible with equipment that meets the OET 53 standard, there is no reason to eliminate or modify the current rule.

¹² Verizon Wireless Comments at 11-13. Verizon Wireless also argued that it would be difficult to get equipment manufacturers to participate in an effort to revise the current rule.

¹³ TIA Comments at 3-4; Qualcomm Comments at 3.

¹⁴ TIA Comments at 2-4.

II. OTHER FCC PROPOSALS

A. The Commission should retain the requirement that each mobile transmitter have a unique Electronic Serial Number (“ESN”).

In the NPRM, the Commission proposed to eliminate the requirement set forth in Section 22.919 of the Commission’s rules that each cellular mobile telephone have a unique factory set electronic serial number (“ESN”) that is not alterable, transferable, removable or otherwise able to be manipulated.¹⁵

In its comments, Verizon Wireless argued that the Commission should retain the section 22.919(a) requirement that each mobile transmitter in service have a unique ESN. It argued that a unique ESN is still a valuable tool in cloning fraud detection and essential for other aspects of cellular service such as billing, provisioning, service validation, and equipment validation.¹⁶

Several parties supported eliminating the ESN rule in its entirety. They argued that current rule is not effective in fighting fraud and that it precludes the use of user identity modules (“UIMs”), otherwise known as “smart card” technology. With this technology, information about the user, including his/her identity is loaded onto a card which is then transferable from one mobile device to another.¹⁷ Similarly, ICSA argued that the ESN rule prevents developing beneficial new products that can share the same ESN.¹⁸ While Qualcomm supported eliminating the ESN rule, it contended that the

¹⁵ NPRM, at 14-16.

¹⁶ Verizon Wireless Comments at 17-18.

¹⁷ Ericsson Comments at 11-12; Qualcomm Comments at 3-5; TIA Comments at 5-6; Cingular Wireless Comments at 16-17; CTIA Comments at 12-14.

¹⁸ ICSA Comments at 3-6.

functions currently performed by the ESN could be performed by the UIM ID – a number similar to the ESN that resides on the UIM. It stated that the UIM ID could replace the ESN for fraud detection, validation and other uses. It argued, however, that industry standards, rather than FCC rules should govern the use of ESNs or substitute unique identifiers like the UIM ID.¹⁹

Verizon Wireless disagrees. Because maintaining a unique ESN is vital for fraud detection as well as billing, validation, and other uses, Verizon Wireless supports maintaining the unique ESN requirement set forth in Section 22.919(a) of the Commission's rules.

Verizon Wireless also opposes Qualcomm's proposal that ESN/UIM ID requirements be maintained by industry standards bodies, not by rule. The only way to ensure that cellular equipment will continue to include either a unique ESN or a unique substitute identifier is for the requirement to be included in the Commission's rules.

However, Verizon Wireless does not oppose measures that will make the current ESN rule flexible enough to accommodate new technologies like smart cards. Verizon Wireless agrees with Qualcomm that the unique UIM ID, when fully developed and implemented, could be substituted for the ESN and used for fraud detection and other purposes. For this reason, Verizon Wireless would support a revision to Section 22.919(a) that would make the rule flexible enough to accommodate unique identifiers other than the ESN.

¹⁹ Qualcomm Comments at 3-5.

B. The Commission must not eliminate the channelization plan, frequency modulation plans, or in-band emission's limits for analog cellular technology until after the sunset date.

In the NPRM, the Commission proposed to eliminate technical rules pertaining to the channelization plan, the frequency modulation plans and the in-band emission limits for analog cellular systems.²⁰ In its comments, Verizon Wireless stated that these rules, like the OET 53 AMPS standard, should be retained at least until the sunset date for the analog service requirement.²¹

A handful of commenters, including some that opposed immediate elimination of the analog service requirement, supported the Commission's proposal to eliminate the channelization plan, frequency modulation plans and in-band emissions limits for analog cellular service.²² These commenters generally argued that the industry can more effectively establish standards that protect carriers from interference and that carriers can be expected to deploy analog service that is interoperable with other analog systems.²³

Verizon Wireless disagrees. As discussed above, retaining the analog service requirement will serve no purpose unless the analog cellular services provided by each licensee are compatible. The only way to ensure that compatibility exists is to retain the current analog service rules until the sunset date.

²⁰ NPRM, at 16-19. The FCC's rules codifying these requirements are at 47 C.F.R. §§ 22.905, 22.915, 22.917.

²¹ Verizon Wireless Comments at 18-21.

²² Cingular Wireless Comments at 17-18; CTIA Comments at 14-15; Ericsson Comments at 6-7; TIA Comments at 6-7; Western Wireless Comments at 10-12.

C. The Commission should revise its out-of-band emissions proposal to ensure compatibility with Third Generation (“3G”) technologies.

In its comments, Verizon Wireless supported the FCC’s proposal to adopt an out-of-band policy similar to that adopted for Wireless Communications Services (WCS).²⁴ However, several commenters, while favoring increased flexibility, correctly noted that the Commission’s proposed changes to the cellular (Section 22.917) and PCS (Section 24.238) out-of-band emission limits would be incompatible with 3G services.²⁵ As a result, the new rules would limit the introduction of some 3G technologies (such as WCDMA or CDMA-2000) in existing cellular and PCS bands.²⁶ In addition, the proposed rule would adversely affect current air interface standards by tightening the emission limits. Clearly, such a result would be unacceptable.

For measurement of the required out-of-band emission levels (-13 dBm), the current and proposed rules for cellular and PCS out-of-band emission limits allow for a resolution bandwidth of at least one percent of the main emission bandwidth in a 1 MHz band adjacent to the main emission. The current rule allows this 1 MHz band to be immediately outside and adjacent to the frequency block while the proposed rule requires the 1 MHz to be measured from the center of the main emission bandwidth.

²³ See, e.g., CTIA Comments at 6-7.

²⁴ Verizon Wireless Comments at 21.

²⁵ NPRM, at 18-19 (¶ 42).

²⁶ See, e.g., Cingular Wireless Comments at 10-14; Ericsson Comments at 7-11; TIA Comments at 6-10; Qualcomm Comments at 6-8.

Since, the center of main emission is typically away from the band edge by at least half of the main emission bandwidth, the proposed rule would effectively reduce the 1 MHz band over which a measurement resolution bandwidth of 1% of the main emission bandwidth is allowed. This reduction would impact the out-of-band emission limits of all wireless technologies, but the penalty is more severe for high bandwidth technologies such as CDMA IS-95 or WCDMA. Besides, if the center of main emission is farther than half bandwidth from the block edge, then the 1MHz from the center of emission would fall completely in the block and not outside it. This is the case for PCS IS-95 CDMA, where the closest carrier is 1.25 MHz from the edge of the block. This is an even greater issue for emissions with bandwidths more than 2 MHz such as WCDMA or “3x” mode of cdma2000, where the 1 MHz from the center of emission is within their main lobe.

The proposed rule change results in a stricter requirement for the measurement of out-of-band emission in the cellular and PCS bands. This would effectively cause a loss of capacity for the currently deployed systems that could limit the deployment of certain 3G technologies.

Accordingly, Verizon Wireless reaffirms its support of the Commission’s efforts to increase the out-of-band emissions flexibility, but opposes the proposed rule changes.²⁷ Verizon Wireless supports redrafting of the proposed rule that will not adversely affect current and future air interface standards. The new rule should read:

²⁷ See, NPRM, at Appendix A, proposed rules §§ 22.917 and 24.238.

(a) Out of band emissions. The power of any emission outside of the authorized operating frequency ranges must be less than –13 dBm.

D. The Commission should eliminate the vertical wave polarization requirement.

In the NPRM, the Commission proposed to eliminate the Section 22.367(a)(4) requirement that cellular transmitters be vertically polarized.²⁸ Verizon Wireless, like the vast majority of commenters addressing the issue, supported removing the vertical polarization requirement.²⁹ Indeed, only OnStar and US Cellular supported retaining the vertical polarization requirement. OnStar argued that wave polarization variation suboptimizes overall performance, while US Cellular argued that lost signal isolation will (1) lead to increased co- and adjacent channel interference, and (2) affect the ability of AirCell, an entity that has been granted temporary authority to use cellular frequencies to provide air-ground service.³⁰

Verizon Wireless disagrees with the contentions made by OnStar and US Cellular that varying the polarization of cellular transmitters will affect performance or cause increased interference. Even where antennas are vertically polarized, significant cross-polarization coupling occurs in the mobile environment due to presence of scatterers or reflectors which create multiple propagation paths. Thus, the original

²⁸ *Id.*, at 19-20.

²⁹ Verizon Wireless Comments at 21-22; CenturyTel Wireless Comments at 6; Cingular Wireless Comments at 18-19; CTIA Comments at 14; Ericsson Comments at 14-15; Qualcomm Comments at 5; TIA Comments at 10; Western Wireless Comments at 12-13.

³⁰ OnStar Comments at 8; US Cellular Comments at 5-6. That authority is the subject of pending litigation. *AT&T Wireless, Inc. v. FCC*, D.C. Circuit, No. 00-1304.

transmitted polarization state of radio waves in a mobile environment is significantly lost.³¹

As for US Cellular's argument about AirCell, AirCell's service is restricted to the use of cellular frequencies on a secondary basis only, and is afforded no interference protection from cellular licensees. Accordingly, even if US Cellular demonstrated that polarization diversity had some effect on AirCell's operation - and it has not - the Commission would not be justified in retaining a cellular rule that is impairing primary spectrum users in order to prevent claimed interference to a secondary user, particularly when no technical analysis is supplied to support those speculative claims.

E. The record does not support the Commission's proposal to "clarify" that the alternative CGSA rule does not allow alternative calculations of cell site service area boundaries ("SABs")

In the NPRM, the Commission proposed to clarify that the formulas stated in Section 22.911(a) of the Commission's rules are the only formulas that may be used to calculate the service area boundary ("SAB") of a cellular cell site. Thus, even when an alternative CGSA is demonstrated in accordance with Section 22.911(b), individual cell site SABs would continue to be based upon the Section 22.911(a) formulas.³²

In its comments, Verizon Wireless opposed the proposed clarification. It argued that the proposed clarification is illogical and inconsistent with Section 22.911(a) of the Commission's rules. In particular, it stated that if a carrier demonstrates that an alternative CGSA is warranted, it has also demonstrated that the formulas typically used

³¹ Verizon Wireless notes that neither OnStar nor US Cellular provide any support for the claims they make with respect to vertical polarization.

³² NPRM, at 22-23.

to calculate each individual cell site SAB do not produce valid results in that area. Accordingly, there is no logical reason for the Commission to require that individual SABs continue to be calculated using the FCC's formulas in cases where an alternative CGSA has been approved. It also argued that requiring the Section 22.911(a) formulas to be used to calculate the SABs in an alternative CGSA circumstance would produce anomalous results.³³

Two other commenters echoed these concerns.³⁴ Indeed, the only statement resembling support for the proposed clarification was made by US Cellular. It stated, in the context of asking the FCC to retain the alternative CGSA rule, that it “has no objection to this clarification” – hardly a ringing endorsement.³⁵ Given the almost complete lack of support for the Commission's proposal regarding its SAB rules, the Commission has no record basis to support “clarifying” this rule.

F. Verizon Wireless would not oppose retaining the incidental services rule, but without the conditions.

In the NPRM, the Commission proposed to eliminate the three remaining conditions attached to Section 22.323 of its rules, the incidental services rule. It also sought comment as to whether the rule should be deleted in its entirety.³⁶ Verizon Wireless commented that the rule should be deleted in its entirety, but only if the

³³ Verizon Wireless Comments at 23-25.

³⁴ Cingular Wireless Comments at 20-21; Western Wireless Comments at 16-18.

³⁵ US Cellular Comments at 7.

³⁶ NPRM, at 23-26.

Commission clarifies that all services previously provided under the incidental services rule may now be provided under the cellular rules.³⁷

A handful of parties argued, however, that the incidental services rule is useful in supporting efforts to provide novel services over all Part 22 spectrum and for convincing state regulators to treat such services as CMRS. These parties supported removing the conditions that attach to services classified as incidental, but retaining the classification.³⁸

Verizon Wireless is not aware of any experience where classifying a service as incidental has helped it avoid state regulation of that service. However, if other carriers have had this experience and find the classification useful, Verizon Wireless would not oppose keeping the Section 22.323 classification, so long as the Commission eliminates the Section 22.323 (a), (b) and (c) conditions that attach to the classification.

III. ADDITIONAL RULE CHANGES PROPOSED

A. Revisions to the unserved area rules.

Several Commenters proposed various revisions of the Part 22 unserved area rules.³⁹ Verizon Wireless favors streamlining the rules governing the unserved area process in a manner that would ease the burden on applicants as well as the

³⁷ Verizon Wireless Comments at 26-27.

³⁸ CenturyTel Wireless Comments at 6; Cingular Wireless Comments at 21-22; Rural Telecommunications Group Comments at 6-10; Western Wireless Comments at 14-15.

³⁹ See e.g., Cingular Comments at 23-25; AT&T Wireless Comments at 5-6; Western Wireless Comments at 2-6; Dobson Comments at 4-7.

Commission. Verizon Wireless supports the following two revisions to the Part 22

unserved area rules:

- Unserved areas of less than 50 square miles would revert to the first in time licensee in the market (or their successor in interest). Where the area crosses market boundaries, the area would be divided along market lines and revert to the first in time licensee in each market, no public notice period would be required;
- For unserved areas greater than 50 square miles, a one time filing window would be created. The incumbent first in time licensee or its successor in interest would not need to file an application, unless another party filed a competing application, in which case the incumbent would have 30 days from the date of public notice to file a competing application. Mutually exclusive applications would be subject to auction. If no entity submits an application, the area would revert to the first in time licensee or its successor in interest.

Verizon Wireless believes that adopting these proposed rules would enhance administrative efficiency, freeing up the resources of potential applicants and Commission staff alike while increasing regulatory parity with other CMRS services.

B. Revisions to the PCS renewal rules.

In its comments, CTIA renewed its 1999 proposal to extend the cellular license renewal rules to PCS providers. It is concerned that the PCS rules are not as complete as the cellular rules in that they do not specifically provide for a two-step hearing process when competing applications are filed. CTIA argues that there is no reason for the discrepancy.⁴⁰

⁴⁰ CTIA Comments at 18-20.

Verizon Wireless supports CTIA's request. Extending the current cellular renewal rules to PCS would be consistent with the Commission's own stated desire⁴¹ and Congressional mandates to establish similar rules for cellular and PCS. In addition, modifying the PCS rules would be beneficial in that the rule change would spell out more clearly the procedure the Commission would follow in a PCS renewal proceeding.

C. The Commission should adopt Qualcomm's proposal to raise the maximum base station transmit power.

In its comments, Qualcomm recommended that the FCC modify section 22.913(a) of its rules to properly account for broadband transmitters.⁴² Verizon Wireless supports Qualcomm's proposal, as the current rules will quickly become inappropriate to address future wideband, multi-carrier systems, and systems employing adaptive antenna arrays. The current rule limits base station power to 500 Watts ERP. As Qualcomm notes, the common practice in the industry is to treat this limitation on a per carrier basis. In a typical analog cellular reuse pattern of 21, there are approximately two analog carriers per CDMA carrier. Thus, in the 1.26 MHz bandwidth, the analog system could radiate two 500 Watt carriers for a total of 1000 Watts. CDMA carriers, however, could only radiate 500 Watts. As CDMA bandwidth increases (for example to 5 MHz for WCDMA), the limitation becomes more pronounced.

⁴¹ See, Amendment of the Commission's Rules to Establish New Personal Communications Services, *Second Report and Order*, GEN Docket No. 90-314, *Notice of Proposed Rulemaking and Tentative Decision*, 7 FCC RCD 5676 (1992), at ¶ 131.

⁴² Qualcomm Comments at 8-9.

In order to properly address adaptive arrays, which may create high-gain beams pointing in multiple directions, the Commission should establish rules for a given frequency as a function of angular direction. Accordingly, Verizon Wireless joins Qualcomm in recommending that the FCC amend section 22.913(a) of its rules to specify power per bandwidth in a specified angular region.

IV. CONCLUSION

As discussed above, Verizon Wireless supports many of the Commission's proposals. However, most importantly, because many cellular customers rely on the analog cellular service that has long been required under the Commission's rules, a transition period is required before carriers can be allowed to eliminate analog cellular service. The Commission should therefore sunset the analog service requirement in five years. In addition, other rule provisions that contain aspects of the analog service requirements, such as the analog channelization plan, the modulation requirements and in-band emissions limitations, should be retained until the sunset date.

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Respectfully submitted,

Verizon Wireless

By: _____
John T. Scott, III
Vice President and Deputy General
Counsel – Regulatory Law

Andre J. Lachance
Regulatory Counsel

Michael P. Samscock
Associate Director Regulatory Matters

Verizon Wireless
1300 I Street, N.W., Suite 400-West
Washington, D.C. 20005
(202) 589-3760